PUBLIC SERVICE PENSION PLAN BOARD

1996 ANNUAL REPORT

Alberta

PUBLIC SERVICE PENSION PLAN BOARD

1988 ANNUAL REPORT

Alberta

90-02776/

Alberta

PUBLIC SERVICE PENSION PLAN BOARD

1203, Legislature Annex, 9718-107 Street, Edmonton, Alberta, Canada T5K 1E4 403/427-7105

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the third report of the Public Service Pension Plan Board for the period January 1, 1988 to December 31, 1988. The report outlines the role and responsibilities of the Public Service Pension Plan Board under legislation governing the plan.

Case summaries and summaries of recommendations made are included to provide an indication of our activities during the twelve month period under review. Comments made on all aspects of the plan have been presented with the view of strengthening the plan.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

TABLE OF CONTENTS

Page #

Chairman's Report 1

The Board and Staff 3

Members 4

Applications and Appeals

Applications and Summary 5

Case Summaries 8

Summary of Major Benefits 23

Recommendations 26

Funding 26

Cost of Living Adjustments 27

Pension Reform 28

Participation 28

Vesting 28

Locking-In 29

Credited Interest 29

Portability and Minimum Cost Rule 30

Other Pension Matters 30

Subsidy on Early Retirement 30

Division of Pension Benefits on Marriage Breakdown 31

Prior Service 32

Cost of Living Adjustments (1988) Report 33

Appendix

Excerpts from the Act 43

CHAIRMAN'S REPORT

During 1988, the Public Service Pension Board met eleven (11) times. Nine regular meetings and two special meetings were held to deal with 22 cases, policy matters, and the Actuarial Report.

The membership of the Board changed during the year, the Chairman was reappointed for a term of four years. The Alberta Union of Public Employees replaced one of its two representatives. Mr. Cliff Craig, who served on the Board from April 1, 1982 until March 31, 1988, was replaced by Ms. Horbach. Mr. Craig was a dedicated member of the Board in serving his constituents. Mr. Gilbert Heise was reappointed as the representative for the employer, he represents the Personnel Administration Office.

The third year of operation of the Board has clearly shown the value of having a forum to deal with disputes. Hearings are conducted in an informal atmosphere which permits the plan members to present their own cases. It was also evident that several appellants opted to be represented by another party, such as a union representative or a solicitor. Five cases required extended hearings to reach a final conclusion.

Positive recommendations to the Minister were the result of a review of several policy issues. There is a continuing effort to make sound benefit and financial recommendations in order to preserve the Public Service Pension System. Change is inevitable and the Board seeks to be a positive influence in the decision making process.

Seminar

During October a seminar was held which brought together all the members of the Government administered plans. Joining the members of Government sponsored plan boards were representatives from other Pension Boards, various Departments of Government, representatives of major Municipal Governments, and several employee and employer associations. Sixty five members, staff, and guests were given excellent insight by speakers dealing with a variety of topics. The topics encompassed updates in investment strategy, and administrative procedures. In addition a detailed review of the proposed Federal Government Taxation Legislation gave all attenders current information. Dr. David Slater, Advisor to the Ontario Government on Public Pensions, presented a lecture using his report "A Fresh Start" as the basis of the discussion. Ms. Anne de Villars, of de Villars Jones, conducted a review of the appeal process and touched on the Boards responsibility and role as an appeal tribunal. The purpose of the seminar is to help in educating new Board members and other interested participants.

Resignations

The seminar also provided an opportunity to honour several former members of the various Boards. At a luncheon, appreciation and best wishes were expressed to former Board members:

Mr. Clifford Craig - who resigned April 1, 1988, and
Mr. Leroy Morgan - who resigned April 1, 1987

Coverage

The Public Service Pension Plan is the vehicle by which 48 employers, including the Alberta Government, provides a pension plan for some 42,259 public service employees. There are about 12,440 recipients of pensions under the plan, including employment, spousal, and other pensions paid to beneficiaries of deceased members. The average age of an active member is 38.2 years with average pensionable service of 7.8 years.

Current Service Costs

Current service costs, based on the Unit Credit actuarial valuation method, is estimated at 10.8 percent of payroll. The Current Service Statutory Requirement produces a combined employee, employer contribution of nine percent. This leaves a shortfall of 1.8 percent for the current service bene-

fits earned. On the basis of "net cash flow" projections the cash flow will become negative in the year 2007/8. With the addition of the fund earnings the date of negative cash flow is estimated to occur in the year 2014/15. We encourage establishing a policy to insure the cash flow is maintained positive for a longer period.

Expenses

Reimbursement of expenses for appellants was reviewed. The Board confirmed its decision to pay reasonable out of pocket expenses to aid appellants in appearing at hearings. However, the rates were adjusted to more effectively reflect the reasonable "out of pocket" expense incurred.

Actuarial Report

The Actuarial Report commissioned by Alberta Treasury was reviewed at a special meeting, the Study revealed there is an accrued liability of $2.25 billion. The required current service contributions are projected as 10.8 percent of current payroll based on the unit credit method and 13.5 percent based on the attained age method. The Board continues to express the view that the method and assumption used by the actuary are not appropriate to establishing the contribution rate required to fund the benefits accumulated for current service. A specific recommendation on this issue was presented to the Minister with recommendations dealing with the "unfunded liability." The unfunded liability arises from the total accrued liability as at March 31, 1988 less the 'estimated' fund. The fund was set up as a fiscal management tool to help the Government in meeting its liability under the Plan. Excess contributions are credited to the "Pension Fund" where it accumulates with surpluses from other plans, less deficits. We encourage positive steps to manage the liability of the Government, created under the plans.

One case arising out of a 1987 decision proceeded to the Court of Queen's Bench. Justice Marshall held that the Board had acted properly in it's decision in The Minister vs Majthenyi. [QQB P30-1/LW]. The Minister chose to proceed to the Alberta Court of Appeal to have the decision overturned.

The Board appreciates the assistance received from staff of the Chairman's office, Payroll and Pensions, Alberta Treasury, and the Minister's Office during the year.

THE BOARD AND STAFF

Representation on the Board from all interested parties is guaranteed by its make-up. The employees and retired employees are represented by two members appointed by A.U.P.E. Alternating terms guarantees a consistent and informed voice on their behalf.

The employer's interest is satisfied by the appointment of a member from Personnel Administration Office (PAO.) PAO represents the view of all employers who participate in the plan.

The Government, as representatives of the public, have a member, who is responsible to report directly to the Minister. By assigning a non-public servant in this capacity, the view of the public is maintained.

The Chairman is appointed by the Lieutenant-Governor-in-Council and is responsible for the leadership at hearings and meetings of the Board.

STAFF

In support of the Board a small but efficient staff provides professional and technical support. The staff has been stable during the year. This stability has been of benefit as consistent service and advice is provided to the Board.

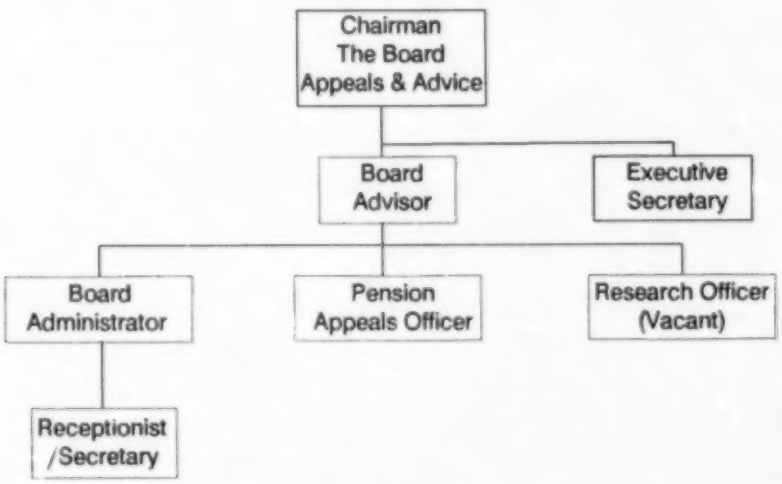

Table 1

BOARD MEMBERS

The Public Service Pension Plan Board is a representative Board, covering members, the employers and the Government. In addition to the Chairman, there are two members representing employees, and one member representing employers and the government respectively.

MEMBERS

J. E. Faries

Mr. Faries was appointed Chairman effective November 1, 1985. He brings to the Board considerable background in pension policy and administration. He served for over 15 years as Director of the Pension Administration until December 31, 1979. He was actively engaged in education as Chairman and a member of the Advisory Council of the Employee Benefits Administration (EBA) program offered by the Faculty of Extension of the University of Alberta. He was also lecturer for the program for several years. He holds several senior positions on other boards and community organizations. His term of office on the Board expired on April 1, 1988, but was extended to April 1, 1992.

A. F. (Chip) Collins

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board member and Vice-Chairman of the Board effective April 29, 1986. He brings to the Board extensive financial, administrative and senior public service experience. His term of office expires on April 1, 1991.

Gilbert Heise

Mr. Heise, representing the employer, was appointed to the Board November 1, 1985. He has extensive experience in the employee benefit field. He is currently the Manager of Benefits and Salary Administration, Personnel Administration office. His term of office expired on April 1, 1988, but was extended to April 1, 1992.

Michael J. Poulter

Mr. Poulter represents the employees. He attended the University of Alberta and has taught in both England and Alberta, at the Vocational Centre at Grouard where he is a senior instructor, until recently program head, Local Government Administration. His involvement with the AUPE dates from 1972, and he has served for three terms as Vice President.

Deborah J. Horbach

Mrs. Horbach received her education in Saskatchewan and attended various short courses through the A.U.P.E. She has held various positions with the Treasury Branches in Lloydminster. She was a member and Vice- Chairman of the Benefits Board of Trustees for six and two years respectively. She also was a member of the Pension Board Advisory Council. Her term of office expires on April 1, 1992.

APPLICATIONS AND APPEALS

Of registered appeals heard, 65% either attended to present their own cases or were represented by a solicitor or other person.

The hearings are informal and only the principles of natural justice and the duty to be fair guide the decisions of the Board.

The Act provides that where a party is aggrieved by the Board's decision, an appeal may be filed with the Court of Queen's Bench.

The main public responsibility of the Board is the conducting of hearings. Independence of the Board must be clear to those who wish to have their cases heard by the board. The location of the hearing venue is at arm's length from Alberta Treasury and the Chairman reports directly to the Minister responsible for Public Service Pensions. We must note that in reaching a decision in the hearings, direction is not provided to either the Chairman or Board members by the Minister.

The hearings are of two types. The hearing of an appeal against a decision made by the Minister and application for an extension of a time limit.

Section 35 of the Act provides, that where a person is aggrieved by a decision of the Minister, he may appeal to the Board within 30 days of being informed of the decision. The Board can confirm, vary, or vacate the decision based on its assessment of the facts of the case.

Applications for extension of time limit is the other type of hearing covering two specific areas of authority. Section 10 of the Act allows an application to the Board for an extension of any time limit under the plan. The Board considers the facts presented by both the Minister and the applicant. The decision is made based on the Board's interpretation of the facts and the governing legislation. The second type of application is under a clause in Reciprocal Agreements between the Public Service Pension Plan and the other parties. The Board may extend the time limits if in their view the circumstances warrant such an extension.

After each hearing the Board provides, within 10 - 14 days, a written decision and its reasons to the appellant.

Comparative Statistics

	1988			1987		
	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Appeals (Sec 34)	13	65%	54%	9	45%	44%
Applications (Sec 10)	3	15%	67%	4	20%	75%
Applications (Reciprocal Agreements)	4	20%	100%	7	35%	57%
Totals	20	100%	65%	20	100%	55%

Table 2

In 58 hearings of all[1] five Government Pension Plan Boards for 1988 the decisions were as follows:

- 36 Appeals, 61 percent were granted or decision varied;
- 3 Applications under Section 10, 67 percent were granted; and
- 19 Applications under Reciprocal Agreements, 68 percent were granted.

During pre-hearing investigation, 19 cases, were settled or withdrawn in 1987, and 15 in 1988.

[1] The Public Service Management Pension Plan (PSMPP), the Local Authorities Pension Plan (LAPP), the Universities Academic Pension Plan (UAPP), and the Special Forces Pension Plan (SFPP).

Summary of Appeals and Applications (1988)

During 1988 the PSPP Board met 10 times to decide 20 appeals or applications.

The PSPP Board granted or varied 65 percent in favour of the applicant in 1988, and 55 percent in 1987. For a comparison with other Boards, refer to tables on the following page.

In 1988, 65 percent of the appellants or applicants, appeared in person or were represented at the hearings. This compares to 75 percent in 1987.

During 1988, 58 appeals or applications were heard by the five Pension Boards. This compares to 60 heard during the calendar year 1987.

A summary, for all Boards, by type of appeal or applications and the percentage are as follows:

1988

Type of Hearing	Number	%
Applications under Reciprocal Transfer Agreements	19	33%
Applications under Section 10 of the Acts	3	5%
Appeals under Section 35 of the Acts (Section 34 for U.A.P.P.)	36	62%

Table 3

1987

Type of Hearing	Number	%
Applications under Reciprocal Transfer Agreements	14	23%
Applications under Section 10 of the Acts	11	18%
Appeals under Section 35 of the Acts (Section 34 for U.A.P.P.)	35	58%

Table 4

Summary of Number of Cases granted by Payroll and Pensions and/or withdrawn by appellants prior to being heard by the Boards is as follows:

Board	1988	1987
PSPP	10	3
LAPP	5	10
PSMPP	1	1
UAPP	2	0
SFPP	1	1
Total	19	15

Table 5

Attendance at hearings (by appellant and or representative):

Board	1988	1987
PSPP	65%	75%
LAPP	70%	64%
PSMPP	100%	90%
UAPP	80%	83%
SFPP	100%	100%

Table 6

Summary of Applications and Appeals to the Pension Boards

For the period 1988

Number of Appeals and Applications heard by the Boards

	Applications		Appeals	
	Reciprocal Transfer	Section 10	Section 35	Total
LAPP	9	-	14	23
PSPP	4	3	13	20
PSMPP	3	-	6	9
UAPP	3	-	2	5
SFPP	-	-	1	1
Total	19	3	36	58

Table 7

Percentage of Appeals and Applications Granted or Varied

	Applications		Appeals	
	Reciprocal Transfer	Section 10	Section 35	Total
LAPP	78%	-	57%	65%
PSPP	100%	67%	54%	65%
PSMPP	67%	-	83%	78%
UAPP	0%	-	100%	40%
SFPP	-	-	0%	0%
Combined	68%	67%	61%	64%

Table 8

Applications for Reciprocal Transfers (Time Limit Extensions)

Importing Plan	Exporting Plan							TOTAL
	LAPP	PSPP	PSMPP	UAPP	SFPP	TRF	OTHER	
LAPP	xx	3	1	-	-	3	2	9
PSPP	2	xx	-	1	-	1	-	4
PSMPP	1	-	xx	-	-	1	1	3
UAPP	-	1	-	xx	-	2	-	3
SFPP	-	-	-	-	xx	-	-	-
Total	3	4	1	1	-	7	3	19

Table 9

CASE SUMMARIES

CASE SUMMARY 1

BACKGROUND

The appellant began employment with Social Services and began contributions to the Public Service Pension Plan (PSPP) on January 21, 1980. On October 31, 1980, he ended his employment with the department. Payroll and Pensions (P & P) issued a refund cheque on December 23, 1980 for $637.55. No further information or communication was received between 1980 and January 27, 1988 when the individual contacted P & P for the status of his account. At that time he was advised that on termination of employment he was issued a refund cheque and therefore there was no further benefit remaining to him under the plan. He then requested permission to repay his refund to transfer it to the Teachers' Retirement Fund (TRF). He claimed he was not advised there was a reciprocal agreement between the PSPP and TRF when he resigned. He stated tl at he would have transferred his funds at that time and therefore requested that he be given permission to reinstate and transfer to the TRF. On April 14, 1988, the Minister rejected the request on the basis that he was no longer a participant under the plan. The length of service in question is .7801 of a year.

APPELLANT'S CASE

The appellant stated that he was unaware of the agreement between the PSPP and TRF and he was never counselled in respect of the chance of transferring his funds. It is on this basis that he requested the Board consider the matter and allow a reinstatement to permit the transfer.

MINISTER'S CASE

The Minister's representative raised the question of jurisdiction as far as the Board's ability to consider the matter. He claimed:

1. There is no authority in the current Act or Regulations to allow a non-participant to reinstate service for a transfer to another jurisdiction.

2. No avenue of appeal under the current legislation is available since the three month time limit to file the appeal was exceeded.

3. No rights under the "old legislation" are available to the individual, furthermore, there is no Public Service Pension Board to which the appellant could apply for consideration of his request.

4. The current Board can only deal with the appeal as envisioned in the "new legislation" and is limited by that legislation in it's power to apply remedy.

In addressing the facts, the Minister's representative stated in 1980 an automatic refund was made to individuals who had less than five years of pensionable service. Since the appellant received the cheque and cashed it, this was considered acceptance of the choice made for him by the administration. Furthermore, the matter took place eight years ago and no indication was received from the individual that he was unhappy with the choice until recently.

LEGAL CONSULTANT'S COMMENTS

The Board requested a legal opinion from its legal consultant on the legal position of the Minister in relation to the Board's authority to deal with the case.

1. The appellant was no longer a participant and therefore was unable to reinstate under sections 16 and 10 of the Act.

   The legal consultant advised that the Minister's position in this instance was correct.

2. The appellant had "made a choice" by cashing the cheque and the choice is irreversible.

   The acceptance of a cheque does not automatically bar the appellant from asserting his right to make a choice. However, a lapse of eight years without any question could be considered conclusive evidence that the appellant "accepted the Minister's choice" on his behalf. Furthermore, the Board's jurisdiction to deal with a revocation must be done within a three month time limit under section 10(3).

3. Section 47 of the Act requires that any action must be taken under the new Act and not the former one.

   The legal consultant stated that the broader range of choice does not affect the ability of the appellant to change his election now, or give the Board any greater jurisdiction now than it has under the current Act.

4. On the Minister's argument that the Board did not have jurisdiction and therefore could not decide the matter.

   It was suggested that the Board consider the merits of this case and if it finds for the Minister and rejects the appeal, the question of jurisdiction would not have to be considered.

DECISION

The Board confirmed the decision of the Minister and rejected the appeal.

REASONS FOR DECISION

1. Accepting the refund and waiting eight years was paramount to making a benefit choice.

2. To have a choice revoked the appeal must be filed within three months of making the choice, the appellant did not meet this time limit.

3. The appellant was no longer a participant under the plan and therefore did not have the right to reinstate the refund under section 16 of the Act.

P88:09:02

CASE SUMMARY 2

SUBJECT MATTER

The decision of the Minister to begin payment of the pension of the appellant on October 26, 1987 (date of application) instead of April 1, 1987 (date of termination of employment).

BACKGROUND

The appellant was employed by the University of Alberta (U of A). He requested an estimate of his pension at age 56 and at age 57. On January 20, 1986 Payroll and Pensions (P & P) on behalf of the Minister, advised of the amount of pension at age 56 and advised there was no financial advantage to defer the pension past the termination date. Employment with the U of A was severed on April 1, 1987. On April 2, 1987 the appellant signed the termination notice in which he requested that his pension be deferred. Again in May 1, 1987, P & P received a document signed by the appellant which showed "leave my contributions on deposit for a deferred pension." On October 26, 1987, in a personal visit to P & P, the appellant claimed he did not receive proper counselling and wished to have an immediate pension backdated to April 1, 1987. On November 10, 1987 a pension option form was sent to the appellant. On November 26, 1987 the appellant again requested that the pension be made retroactive to April 1, 1987 because of improper counselling. On December 31, 1987 he chose a joint life unreduced and coordinated with Old Age Security option. In February 1988 the Minister denied the appellant's request to backdate his pension to April 1, 1987.

APPELLANT'S CASE

The appellant stated that he did not receive proper counselling in respect of his pension plan. And he said he was under extreme duress during the period in question since the termination of his employment was involuntary and this was the reason for the inadequate counselling. He also said that he had read the "yellow pension booklet" (1978 edition) which had not addressed the issue of re-employment properly. He stated since he intended to be re-employed in the public sector, he chose not to apply for an immediate pension. He stated that he interpreted the booklet to say if he retired and received a pension he would have to pay it back on re-employment. He did not want to create a debt by accepting a pension and stated when he received the "blue" booklet and the pamphlet on early retirement, it became clear to him that he acted unwisely. He received the "blue" book and pamphlet from P & P shortly before the October appointment. The appellant stressed that he was overwhelmed by the situation and only received a "piece of paper" and told to make a choice. He was also advised that it did not make a difference if he retired April or May 1, which later proved to be poor advice and cost him 10 months pension.

MINISTER'S CASE

The Minister's representative stated that the letter to the appellant, dated January 20, 1986, was clear and advised there was no financial advantage in delaying receipt of his pension. The normal application is that deferred pensions are payable from the date the application is received by the Minister.

DECISION

The Minister's decision was vacated and the pension ordered to be paid to the appellant effective April 2, 1987.

REASONS FOR THE DECISION

1. The appellant was not properly counselled in respect of the conditions related to re-employment .

2. The information on re-employment was not readily available to the appellant.

3. An informed decision could not be made because of the lack of advice or information.

P88:05:03

CASE SUMMARY 3

SUBJECT MATTER

The refusal to recognize a period of authorized leave of absence without pay (LWOP) on the basis of failure to meet the time limits set by the Minister.

BACKGROUND

The appellant started employment with the University of Alberta on February 6, 1974 and contributions under the plan on November 1, 1979. On March 31, 1981, her employment status changed and she became a full-time recurring term employee and was not eligible to participate. Her employment status again changed in April 1986 and she recommenced participation in the plan. Contributions made April 1, 1981 - July 1983 were accepted by the Minister and the service credited to her account. On June 13, 1986 a request for recognition of a period of leave without pay, June 1, 1984 - August 31, 1984 was made. The Minister refused to allow the LWOP due to failure of the appellant to meet the 90 day time limit.

APPLICANT'S CASE

The appellant claimed that she was unable to meet the deadline of 90 days since the employment in which she was engaged was non-participatory employment. She was therefore estopped from making application.

MINISTER'S CASE

The Minister's representative stated there were 2 reasons for rejection of the request.

1. She did not meet the 90 day time limit, and
2. the leave of absence was during a period when the service was non-contributory.

The Board requested that the Minister provide a response to two questions:

1. Was the leave in question authorized leave?
2. Were other periods of leave established as pensionable?

The response was "The leave without pay from June 1, 1984 to August 31, 1984 was an authorized leave. Included in this costing were periods of leave without pay from April 1, 1981 to August 31, 1981, June 1, 1982 to September 30, 1982, and August 1, 1983 to August 31, 1983."

DECISION

The time limit be extended and that the leave of absence of June 1, 1984 - August 31, 1984 be recognized as eligible service.

REASONS FOR DECISION

1. The time limit was missed since she could not have applied because of the status of employment.
2. Previous periods of identical service had been recognized and therefore, the appellant was of the view that no further restrictions were in place.
3. That the onus to report the change in administrative procedure was on the administration to advise the member.

P88:01:02

CASE SUMMARY 4

SUBJECT MATTER

The refusal of the Minister to permit a change to the pension option chosen.

BACKGROUND

The appellant retired from the public service under the early retirement incentive program on April 10, 1987. She received her pension option during May 1987 and started to receive an advance of $1,080 per month. The appellant chose an option, guaranteed 20 year coordinated with Old Age Security (OAS), the choice was received on May 25, 1987. On July 8, 1987, the appellant was advised that based on her recorded choice, the pension would amount to $971.29 per month. On September 2, 1987 the Minister received two letters from the appellant in which she stated that she intended to choose a guaranteed 20 (G20) year coordinated with OAS and the Canada Pension Plan (CPP). One of the letters dated August 28, 1987 stated that she also wished to change her choice from a G20 to a normal pension coordinated with OAS and CPP. The Minister denied her the right to change her choice as she had received her first regular pension cheque. The G20 coordinated with OAS amounted to $971.29 while the normal pension coordinated with OAS and CPP amounted to $1,201.51 per month.

APPELLANT'S CASE

The appellant's representative stated there were several extenuating circumstances surrounding the choice made by the appellant. First, because of the pressure placed upon her because of the early retirement incentive, and the person who she looked to for guidance had left the government, she checked off the wrong box. He also stated that the form received by the Minister was the second choice form and the first was correct (no proof was presented). He also presented evidence that the appellant was under severe stress because she was under treatment for cancer at that time. He said that the forms supplied when combined with the option choice were confusing. He also stated that the appellant acted swiftly once she received a cheque for less than what she expected. She called Payroll and Pensions (P &P) and asked to have the matter corrected. The appellant confirmed that she acted almost immediately to correct the choice and followed up by letter. She contacted AUPE and P & P staff. She also confirmed that she was confused about the G20 and normal term. She stated that she did not have any dependants and therefore the best option for her was the normal pension coordinated with OAS and CPP.

MINISTER'S CASE

The Minister's representative stated that, the Minister had no choice, since legislation (section 40 of the Act) did not permit a change once a pension was in payment. He reminded the Board that they only had authority under section 10 of the Act.

DECISION

The Minister's decision was vacated and the appellant was permitted to:

a. Change her chosen option from a 20 years guarantee to a normal pension, and

b. Coordinate the pension with OAS and CPP.

REASONS FOR DECISION

1. There were extenuating circumstances due to medical condition of the appellant that would lend a degree of confusion to the matter.

2. The appellant was not properly informed of the choices available and the consequences of the choice made.

3. There was clearly confusion in the appellant's mind when she made the choice.

4. The appellant's best interest would be served by allowing a change in the choice and no material changes were evident in respect of her circumstances.

P88:04:03

CASE SUMMARY 5

SUBJECT MATTER

The decision of the Minister which refused to recognize a period of service while engaged by the University Hospital in Saskatoon as a senior intern.

BACKGROUND

The appellant completed his medical education and internship during the period July 1, 1957 to June 30, 1958 with the Calgary General Hospital. He then went to the University of Chicago, U.S.A., for the period July 15, 1958 to June 30, 1959 for which he received a certificate confirming that he had satisfactorily served as a junior assistant resident in obstetrics and gynaecology. The appellant then became engaged at the University Hospital in Saskatoon continuing on in his specialty.

APPELLANT'S CASE

The appellant stated that the senior internship at the University Hospital in Saskatoon was in fact a resident year. He said that he was eligible to be licensed in Alberta and as proof of his case, he produced the certificate from the University of Chicago showing that he had served there as a junior resident. He also said that the Minister's refusal to recognize his service did not appear to be objective. He also addressed costs in which he requested that the rates be set at the rates in effect before January 1, 1979 since he was not aware that the service with the University Hospital in Saskatoon was eligible service and that he had applied for three other periods of service which verified his intention to apply for all eligible service under the plan. He stated that Section 10 of the Act allowed the Board to extend the time limit to permit the service to be recognized at the old rates.

MINISTER'S CASE

The Minister's represenative simply stated that the title of senior intern with the University Hospital indicated that the service was not recognizable under the plan. He stated that the apppellant was not licensed in Alberta and the procedural memo dealing with the recognition of service as an intern or as a resident required licensing in Alberta before the service could be recognized. In speaking to costs he said there was no clear application for the service before January 1979. Since there was no application made for the specific service in question, the costing rates should be under the current basis. In responding to a question, the MInister's representative stated that when a resident has applied for service and the position is clearly identified as that of a resident, no further questioning is entered into to determine whether or not the individual is licensed in Alberta. The service is allowed on the basis that employer said that it was a period of residency.

DECISION

In respect of the recognition of service, the Board vacated the decision of the Minister and indicated that the period of service with the University Hospital in Saskatoon for the period July 1959 to June 1960 be considered as eligible service. Costing method: the Board's decision in connection with the costs is that the current costing formula be applied to the service in question.

REASONS FOR DECISION

1. The terminology, senior resident was a descriptive title given to a position at the University Hospital (Saskatoon). Saskatoon Hospitals had interns, senior interns, and residents, however, in reviewing the facts, the Board was satisfied that senior intern equated to a resident and the appellant was eligible for licensing in Alberta.

2. Since no request is made of other doctors to prove licensing in Alberta, it was felt that in this situation the individual in question should not be penalized because he did not have a "licence in Alberta".

3. No application was made before the deadline and the Board considered there were no convincing reasons presented to extend the deadline to allow an application.

P88:09:04/05

CASE SUMMARY 6

SUBJECT MATTER

The suspension of a payment of pension for a period during which the appellant was re-employed.

BACKGROUND

The appellant started employment with the Alberta Attorney General's Department and participated in the Public Service Pension Plan on March 5, 1973. He reached age 65 on February 19, 1984 and was advised by Alberta Treasury on behalf of the Minister the options to which he was entitled under the plan. The appellant terminated employment on February 18, 1984. During 1987 Payroll and Pensions, discovered that the Department of Culture had employed pensioners in wage positions and advised Alberta Culture that the employment of pensioners may be subject to control under the PSPP Act. The department provided information in connection with pensioners that they had employed and it was indicated that the appellant was employed October 1984 to December 31, 1984 for 31.48 days and commencing January 1, 1985 to December 1985, he worked 84.87 days. 15.03 of those days were recorded in January 1985. Again January 1, 1986 to December 1986 he worked 132.25 days 12.94 in January 1986 and 13.16 in December 1986. January 1, 1987 to November 21, 1987 he was employed 127.74 days 14.81 days in January 1987. The Department of Culture was advised that the four month re-employment rule had been extended to 8 months in connection with his employment, however, they advised that overpayment for the period January 1985 and January 1987 would have to be recovered as the pensioner worked in the previous December of 1984 and 1986 respectively. The amount of recovery was $428.72.

APPELLANT'S CASE

The appellant, since he chose not to appear in person or be represented, made his submission in writing. He claimed that since the time worked was a result of extenuating circumstances, he felt that the penalty was not justified. He said that the government benefited more than he did because of his expertise which was utilized during his re-employment by the Museum. He felt that the staff shortage or severe staff shortage at the Museum in 1985 and 1987 was directly responsible for him being engaged during that period of time. He claimed it was an emergency call as a result of vacation, illness and resignation of staff. He said that during 1987 many employees resigned because of the objection they had to being employed during the night shift. In 1987 the department requested that he work additional hours. He felt that the combination of two resignations plus three people being admitted to hospital left the Museum with little time to hire and train new personnel. He held that this was a crisis situation which resulted in him being requested by the Museum senior staff to help them during the period. He said that many times on very short notice he cancelled other activities to help Alberta Culture in staffing the Museum. It is on this basis that the appellant requested that the decision of the Minister be vacated and it be declared that he does not have to repay the pension during that period.

MINISTER'S CASE

The Minister's representative cited that the appellant was employed during January 1985 and 1987 contrary to Order-In-Council (O.C. #823/62). The Minister also extended the 4 month period of re-employment to 8 months under the discretionary clause of the O.C. However, the period of employment in the respective January's 1985 and 1987 could not be waived since no discretion was provided under the order. He agreed that it was an error made by Alberta Culture in this case, however, he felt that the rules were clear and that both Alberta Culture and the appellant should have been aware of them. The Minister felt that his decision should be confirmed and the appellant be required to repay for the two periods during which he was engaged.

DECISION

The Minister's decision was vacated and the appellant was not required to repay the pension paid during the months of January 1985 and 1987 respectively.

REASONS FOR DECISION

1. The employer, Alberta Culture, admitted that they had made an error and they did not fulfil their responsibility to the appellant.
2. It was felt by the Board that the appellant should not be made liable since the error was that of the employer.

P88:06:04/5

CASE SUMMARY 7

SUBJECT MATTER

The decision of the Minister (a) not to recognize a period designated by the employer as eligible for probationary year and (b) not recognizing a period of service while a demonstrator.

BACKGROUND

The appellant began employment with Alberta Forestry Lands and Wildlife on September 30, 1957. He had some previous employment with the University of Alberta (U. of A.) before 1957 and the Minister received the supporting records. The U. of A. confirmed that the appellant was a student on a Fellowship Grant from September 1 - December 31, 1955. He was advised of the cost of the prior service and paid the full amount demanded. During 1976, his prior service was recalculated resulting in an overpayment on the prior service which was refunded on December 6, 1976. The appellant was provided with a statement of account and he immediately filed a complaint with Payroll and Pensions about the length of service credited. He felt the service was one year short. He was advised that the service was not eligible since it was a part of his program as a student at the U. of A.

APPELLANT'S CASE

The appellant stated that his main appeal was against the decision not to provide a full year of pensionable service for the "probationary period." He stated that the employer in concert with the Pension Board agreed that the 12 month period January 1 to December 31, 1956 would be considered his probationary year. And that he would not have to make any payment on the service. He thought the refund made of $33.01 was in support of the above comment about the prior service and the fact he did not have to pay for the service. He stated that the service itself, or its eligibility for recognition, was not relevant to the issue and the Board should find in his favour and order the recognition of another one year of pensionable service.

The appellant decided that he would like to present his argument for the recognition of the service if the Board decided against his main appeal. He stated that the period as a demonstrator was not required for his degree. He also stated that although he realized the service was not eligible under the PSPP, if he had been correctly advised, he would have purchased the service while seconded as a professor to the U. of A.

MINISTER'S CASE

There is no possibility of a period of service being recognized as pensionable unless contributions are made. The employer was dealing only with the eligibility for participation, not pensionable service. Therefore, the Board should uphold the decision of the Minister.

In respect of the second question, it is clear that service as a demonstrator is not eligible under the PSPP. The service could not have been recognized while the appellant was employed at the U. of A., since he was on a secondment and was still an employee of the Department.

DECISION

A. The appellant's claim that his "probationary" year of 1956 be considered pensionable service was denied.

B. The appellant's appeal to have the periods, January 1 to March 31, 1956 and October 1 to December 31, 1956, while a demonstrator at the University of Alberta, recognized as pensionable service, was denied.

REASONS FOR DECISION

A. 1. The probationary period is recognized for eligibility for participation and not for pension purpose.
   2. Prior service can only be converted to 'pensionable service' if payment is made.

B. The appellant himself admitted that he realized that the service in question could not be recognized under the PSPP.

P88:04:04/05

CASE SUMMARY 8

SUBJECT MATTER

Crediting of service as part-time while the appellant contends to have been employed on a full-time basis.

BACKGROUND

The appellant was engaged on a full-time basis by the Stony Plain - Lac St. Anne Health Unit and because of economic circumstances, the position was reduced to part-time. In 1980 she commenced as a part-time employee under the Public Service Pension Plan. In 1982 Payroll and Pensions (P &P) was asked to verify periods of prior service and the proof submitted by them showed that she had worked full-time for several months since September 1980. In October 1982 the appellant was again provided with information relative to the period of recognized service under the plan. When providing information on the service, the service was calculated on the basis of 1950 hours being full-time service. The employer objected to recognition of service on this basis since their full-time employees worked only 1827 hours per year. An appeal was launched and the Board upheld the decision of the Minister on the basis that the formula in place at the time was indeed 1950 hours for full-time service. Since that time, regulations have been changed and the Minister now completely relies on the employer to advise of the length of service and the corresponding full-time period of employment by their staff. When reviewing the information, the appellant discovered that periods during which she had previously received full credit had now been included in the prorated portion of service. She claims that this reduced her service by 17 days.

APPELLANT'S CASE

The appellant presented the view that because of the 85 factor, it was important she receive credit for full-time service during May 1981 and for periods of October to December 1981. She claimed that she agreed to take on the part-time position to allow her to develop a specialty. The specialty itself was small and only required part-time involvement, however, during the two periods in question she claimed to have been employed full-time filling in for other nurses at the health unit. While employed part-time she was engaged by the University of Alberta (U. of A.) in a special project which was not eligible for pensionable service. She claimed that she began in 1982 to have a corrected period of service credited to her account. Once the full-time service was correct and now because of the proration, she was only being credited on a part-time basis of point six of a month. It was clear from the records that the payment for the periods in question indicated that the employee was reported on a full-time basis. The employer appeared and said that the health unit reported that the appellant was employed on a full-time basis for May, October, November, December 1981 plus March 1983. He felt that she should have received full-time credit for her pension during this period. He verified that all other employee benefits were paid on the basis of .60 and all are prorated on that basis. During the full-time periods outlined by him, he said that the formula would have been changed and she would have received 100% credit for the benefits for those months. He held that 1827 hours are indeed full-time employment by employees of the health unit and not 1950 hours as dictated by the formula applied by the Minister.

MINISTER'S CASE

The Minister's representative said that the procedure before November 1, 1985 was for the employer to advise the Board of their part-time employees and participation was approved by the Board. If any change was to be made to her status the employer was required to notify the Board by submission of the Notice of Change of Status. The health unit should have advised of the change in status of from part-time to full-time service. The Minister's representative said the Minister acted on the information provided by the employer in this case and that the service was prorated. The Minister now accepts what the employer says as far as the length of

service rendered by an employee. The employer must file their length of service requirements with P & P. The Minister's representative stated that before 1985 the rules are clear, however, since then they have been changed to a fair and more equitable formula. The formula is not retroactive and therefore, the rules in place before 1985 must remain in effect.

DECISION

The decision of the Minister was confirmed.

REASONS FOR DECISION

1. Applying the employer's standard of full-time 1827 hours = 152 hours per month. Therefore, the 140 hours served by the appellant still falls short of full-time equivalent even when applying the employer's own formula.
2. The calculation of the period credited September 1, 1980 to September 30, 1982 equalling 1yr2mo16da appears to have correctly credited the service for May and the period October to December 1981.
3. No status change was filed to convert the employees participation from .6 to full-time during the periods in question.

P88:06:02 & P87:06:04

CASE SUMMARY 9

SUBJECT MATTER

The decision of the Minister in which he refused to allow the appellant to change her choice of pension option.

BACKGROUND

The appellant retired from the public service on June 15, 1987. Her pension started on June 16, 1987. Option forms were received by the appellant and she made a choice on July 2, 1987. This was pursued with another choice on July 7, 1987 which confirmed the first choice. The final pension choice was confirmed by the Minister on September 18, 1987. On November 27, 1987 the appellant wrote Payroll and Pensions and requested that the option be changed to include a joint-life non-reduced pension coordinated with Old Age Security (OAS) and Canada Pension Plan (CPP) because of unforeseen financial circumstances. The Minister rejected her application since the pension contract had been finalized.

APPELLANT'S CASE

The appellant advised that she simply did not foresee the financial problem that would arise. She cites a 1000% increase in municipal property taxes, a reduction in income because of the market collapse and spouse's retirement income was less than expected.

MINISTER'S CASE

The Minister's representative stated that the appellant was fully informed of the situation and had made an informed choice. He stated that she had twice confirmed her choice and there appeared no room to interpret that the choice of option forwarded to the Minister as a "choice not intended" by the appellant. He stated that she was fully informed when she made the choice.

DECISION

The Minister's decision was confirmed.

REASONS FOR DECISION

The appellant did not prove that she had not been fully informed and that she did not intend the choice that was sent to the Minister.

P88:05:04

CASE SUMMARY 10

SUBJECT MATTER

The decision of the Minister to use the salary the appellant would have earned had he continued as a Fire Prevention Officer I, with the Department of Public Works.

BACKGROUND

1. The Notice of Appeal was received by the Board after the 30 day deadline.

2. The appellant was employed by the Department of Public Works from November 1, 1966 until he was granted a leave of absence on May 1, 1978 to serve as an Executive Officer of the Alberta Union of Provincial Employees (AUPE). He succeeded the former President of AUPE and served until he resigned on November 13, 1987. AUPE reported the salary as the salary paid the president, contributions were deducted from the reported salary. On several occasions Payroll and Pensions (P & P) requested additional contributions from AUPE and one other member of the union executive. When the appellant resigned he received an estimate of his pension based on the salary he would have received had he continued to be employed as a Fire Prevention Officer I (FPO I) with the Department of Public Works.

THE APPELLANT'S CASE

ARGUMENT

It is submitted that the applicable salary level for the purpose of calculating the appellant's pension contributions should be based on that of President of the AUPE.

Section 11 of the *Public Service Pension Plan Act* S.A. 1985 c.P-35.1 outlines what classes of persons are eligible to participate in the pension plan under this Act. Here the applicable subsection is 11(1)(b):

> 11(1) "Subject to any prescribed modifications and conditions, the following are the persons who are to participate in the Plan:
>
> b) employees who immediately before the commencement of this section were participating in the pension plan under the former Act;

(The former act being the *Public Service Pension Plan Act* R.S.A. 1980 c.P-35, now repealed).

By agreement since April 28, 1978 the Province of Alberta has treated the appellant as a participant under the Act (and its predecessor Act). Under s.29 of the *Public Service Act* the Province has the authority to make such an agreement. Section 29 reads as follows:

> **29(1) Notwithstanding anything in this Act, a department head may, on behalf of the Government, enter into a contract of employment with any person in accordance with this section if the department head is authorized to do so under the regulations made pursuant to this section.**
>
> (2) A contract of employment shall not be entered into under this section with an employee who is part of a bargaining unit under the Public Service Employee Relations Act.
>
> (3) A contract of employment under this section shall provide for:
>
> (a) the remuneration to be paid to the employee;
>
> (b) the duration of the term of employment;
>
> (c) subject to clause (d), the period of notice required to be given by the employee or the department head to terminate the employee;
>
> (d) the amount of remuneration to be paid by the Government in lieu of the giving of notice to the employee;
>
> (e) the terms and conditions of the employment.

(4) A contract of employment under this section may

(a) make inapplicable to the employee any of the provisions of this Act or the regulations under this Act;

(b) vary, or qualify the application of, any of the provisions of this Act or any regulations under this Act.

(5) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations

(a) Prescribing the circumstances and conditions under which a department head may enter into a contract of employment under this section;

(b) prescribing any terms and conditions of employment under contracts authorized pursuant to clause (a).

(6) Notwithstanding the Public Service Pension Act the contract of employment may exclude the employee from the operation of that Act.

[emphasis added]

As the appellant was participating in the plan under the former Act, it is submitted that he is eligible as a "participant" under the present Act as well.

It would appear that the key to determining the applicable rate of salary, is to decide the nature of the appellant's status under the plan. It is submitted that the issue therefore becomes:

> Is the appellant an "employee" as referred to in the definition of salary in s. 1(1)(q)(i) of the Act, or an " 'employee' falling within a prescribed class of employees" such as to attract the definition of salary in Alberta Regulation 309/85 s. 1(j)?

Section 1(1)(q)(i) provides:

> " 'salary' means
>
> (i) an employee's gross basic pay for the performance of the regular duties of his employment, excluding, except as prescribed by the Minister, any expense allowance, overtime payment, special remuneration or other similar compensation, or"

Section 1(j) provides:

> " 'salary', in the case of an employee receiving benefits under a disability plan or on leave without or with partial pay, is prescribed under section 1(1)(q)(ii) of the Act to mean the salary that was being earned by him immediately before he commenced to receive those benefits or went on that leave, increased by any subsequent general increases applicable to the class of employees that he was then in."

It is readily apparent that the P & P Division have used the definition in s. 1(j). In order to do so, the appellant would have to be an employee *on leave* receiving disability benefits, without pay or receiving partial pay. The appellant does not fall into any of these categories. The appellant may be on leave from the point of view that upon vacating his elected position he may return to his previous position, but this is *not* the case for the purposes of this Act.

The appellant was employed by the AUPE, an "employer" under the Act by agreement with the Province pursuant to an arrangement permitted by Section 29 of *the Public Service Act.*

Section 1 (1)(f) of the *Public Service Pension Plan Act* provides:

> "employer" means the Government or *any person who employs a participant* or otherwise occupies an employer or former employer relationship in relation to a participant

and, in relation to a person who is a participant by virtue of his being a member of a corporation, includes that corporation; "(emphasis added)

This "employer" was AUPE, and it was making "employer contributions" on behalf of the appellant based on the rate of salary paid by it. In order for P & P's argument to succeed, the Government would have to continue making "employer contributions". It did not because the parties obviously agreed that AUPE would instead.

Further, if the appellant was an "employee on leave without pay," Regulation 309/85 s. 6(2) would become applicable, curtailing the current service contributions which would be accepted. In almost 10 years of contributions P & P has never asserted this position, and it would be grossly inequitable to permit it to do so now.

The appellant is clearly an "employee of an eligible employer" under the Act. This "employee" and "employer" have made current service contributions based on the definition of salary in s. 1(1)(q)(i) continuously for nearly 10 years. It is submitted that this is the correct interpretation of the application of the Act to this employee and the Board is bound by this Agreement.

He is not an "employee on leave without pay". If he was, his current service contributions would have *ceased* to be payable some time ago by virtue of s.6(2) of Regulation 309/85, and the employer contributions up until the time of disallowance *would have been made by the Government.* At a minimum, the Government would have intervened *years ago* to halt the payments by AUPE and refund the payments. It did not do so.

This is an unusual situation which, it is submitted, does not fit squarely within the provisions of the *Act.* Initial consideration would make the appellant appear to be an "employee on leave without pay". However, that characterization does not fit properly as seen by the factual analysis above. It is submitted that allowing the appellant to make current contributions based on current salary is the most logical and fair way to proceed.

It is further submitted that even if it is decided that the appellant is an "employee on leave without pay", the Pension authorities are *estopped* from asserting that the rate of contributions is incorrect. Payments have been made based on the appellant's salary as an elected official of the AUPE since 1978- any challenge to the applicable rate of contribution should have been made long before now. In fact, on at least two occasions (November, 1979 and December, 1981) the appellant and the employer were advised that there had been a shortfall in the required contributions - a shortfall based on calculations using the appellant's salary as an elected official of AUPE This is not merely a situation where an error had been made initially and continued unnoticed. The P & P Divisionhad reviewed the file sufficiently to decide that there had been shortfalls in contributions and it is submitted that disagreement in the rate of contributions should have been dealt with then. Had the appellant chosen to continue in the employment of the AUPE, it is likely that contributions would have continued at this rate for an even longer period, and would not have been challenged.

By the decision to refund monies at this time the appellant is facing a financial penalty through no fault of his own. It is submitted that this is inequitable and in violation of the agreement of the parties and that this Board should exercise its discretion to prevent such a result by upholding and allowing the contributions made to date.

MINISTER'S CASE

Legal Council on behalf of the Minister dealt with the following issues:

1. There was no approval by the Board to extend the leave of absence without pay.

2. The current rules limit the leave period to three years.

3. The Public Service Pension Board had addressed this matter and developed rules as encompassed in P76:10:01.

4. The Minister had agreed to recognize the full period of leave based on the salary the appellant would have received had he continued to be employed.

In addition the appellant was (or should have been aware) of the requirements to apply to the Board for approval of his extended leave. There was also a letter issued to the appellant and a Personnel Administration Directive 07:04 which should have alerted him to the regulation in effect. The soliciter also presented the view that the Board did not have jurisdiction to apply the remedy of estoppel. Even if it did have the jurisdiction all the elements leading to estoppel were not present in this case. The Minister relies upon the reporting authority to provide the correct salary, P & P do a mathematical check to be sure the "correct contributions" are made based on the salary reported. This is what happened in this case and in no way was there a representation by the Minister that the Union salary was the basis on which payment of the benefits are determined.

The hearing was adjourned until a later date. The hearing was concluded on March 31, 1988, none of the representatives were in attendance at the concluding day of the hearing.

DECISION

1. The case would be heard notwithstanding the appeal was filed after the deadline.

2. The over contribution made by the appellant and AUPE are to be refunded and in addition to the contribution, interest at the average rate of the 10 Provincial Bonds as reported by the Bank of Canada, compounded semi-annually over the period in question be refunded.

3. The appellant's salary for pension purposes (both contributions and pension benefits) be based on a progressive salary through the FPO series 1, 2 and 3 starting at level of salary in force when he was granted leave to serve as the President of the AUPE.

REASONS FOR DECISION

1. No objection to the hearing by the Minister.

2. The legislation provides for 10 Provincial Bond interest to be paid on refund of contribution made in error.

3. a. The evidence presented did not support that the Union salary was held out as the salary on which payment of benefits would be determined.

   b. The appellant was put on notice by the letter from Public Works from Mr. Davies and the Policy Directive 07-04 from the Personnel Administration Office.

   c. Notices were sent to AUPE respecting the policy that related specifically to elected officers as it related to the pension scheme.

   d. Had the appellant continued as a FPO with the Department of Public Works, he could reasonably expect to progress through the series for FPO to the LSI step.

P88:03:02/03

SUMMARY OF MAJOR BENEFITS OF THE PUBLIC SERVICE PENSION PLAN

This summary is not a legal interpretation of the Public Service Pension Plan Act. The Act and Regulations should be reviewed for an interpretation in any specific circumstance.

The Public Service Pension Plan Act (Chapter P-35.1 1984 of the Statutes of the Legislative Assembly of Alberta) authorizes a pension plan for payments of pension and related ancillary benefits to employees who are eligible to participate in the Plan.

Eligibility for Participation

Persons eligible to participate in the Plan include full-time, part-time, and other employees as defined in the Act.

Contributions

Employees are required to make current service contributions in accordance with the following schedule:

	On Salary Up to YMPE*	On Salary in excess of YMPE*
1988	4.200%	6.00%
1989 and after	4.375%	6.25%

** YMPE is the Year's Maximum Pensionable Earnings for each calendar year as defined in the Canada Pension Plan.*

Contributions are not made after 35 years of pensionable service has been credited.

Employers contribute an amount equal to the employee current service contributions.

Credited Interest

To determine lump sum cash benefits or transfer amounts, interest is credited on employee contributions at four percent per annum, compounded semi-annually.

Normal Retirement Age

The normal retirement age is 65. The effective date of commencement of pension is the day after the person ceases to be an employee or becomes eligible for a benefit.

Normal Retirement Benefit

The benefit payable at normal retirement is an annual pension equal to:

Two percent of pensionable salary multiplied by years of pensionable service before January 1, 1966; plus

1.4 percent of pensionable salary up to the average YMPE; and 2.0 percent of pensionable salary in excess of the average YMPE, multiplied by years of pensionable service on or after January 1, 1966.

Pensionable salary is the participant's average annual salary in the 5 consecutive years in which his or her average salary was the highest.

Average YMPE is the average of the Year's Maximum Pensionable Earnings under the Canada Pension Plan in the 5 years preceding date of termination of employment.

Normal Form of Pension

The pension is payable for the lifetime of the pensioner or 5 years, whichever is longer. If the pensioner has a spouse, he or she will be deemed to have chosen a joint life pension with 2/3 continuing to the surviving spouse. Such joint life pension will be actuarially equivalent to a pension payable for the lifetime of the pensioner, guaranteed 5 years. Optional forms of pension on an actuarially equivalent basis are available subject to the completion of a spousal waiver form.

Benefits on Early Retirement

A participant, who ceases to be an employee after attaining age 55 and whose age and pensionable service total 85 or more, is entitled to an immediate normal retirement pension.

A participant, who ceases to be an employee after attaining age 55 and the completion of 5 years pensionable service, but whose age and pensionable service do not total 85, may choose to receive a reduced pension starting immediately. In practice, only one-third of the full actuarial reduction is applied.

Benefits on Disability

An employee or a person entitled to a deferred pension, who is totally disabled, has completed 5 years of pensionable service, and is not receiving benefits under an approved disability plan, is entitled to receive a normal pension.

A person, who satisfies the above conditions but is partially disabled, is entitled to receive a pension that is actuarially equivalent to the pension that would be payable if his or her age were the lower of 65 or 85 less his or her pensionable service. In practice, only one-third of the full actuarial reduction is applied.

A person receiving benefits from an approved disability plan is not entitled to receive concurrently a disability pension from the Plan. While in receipt of benefits from an approved disability plan, participation in the Plan continues. Salary for current service contributions or determining any pension to which the participant may later become entitled, is the salary that was being earned immediately before disability benefits began, increased by any later general increases applicable to his or her class of employment.

Benefits on Death before Retirement

On death before retirement of an employee or former employee who has contributions in the Plan and who has

a. no surviving spouse or dependent children, the beneficiary is entitled to a payment equal to employee contributions with interest;

b. a surviving spouse or dependent children, the spouse or children are entitled to a payment of two times the employee contributions with interest.

If the deceased had completed five years of pensionable service, the surviving spouse may elect instead of (b) above:

i. a pension for life calculated as if the employee or former employee had retired with an unreduced pension on the day before death and elected a joint life pension with 100 percent continuing on his or her death; or

ii. a pension, with a guaranteed or a pension for life, with or without a guarantee that is actuarially equivalent to (i) above.

Benefits on Termination of Employment

On termination of employment before the completion of five years of pensionable service, a participant has the option of

- receiving a refund of employee contributions with interest; or
- transferring employee contributions with interest plus any other amount transferable under a reciprocal agreement to another registered pension plan.

On termination of employment after the completion of 5 years of pensionable service but before being entitled to receive an immediate pension, a participant has the option of

- receiving a refund of employee contributions with interest;

- transferring employee contributions with interest, plus any other amount transferable under a reciprocal agreement, to another registered pension plan;
- receiving a pension commencing at or after age 55 that is actuarially equivalent to the pension that would be payable if his or her age were the lower of 65 or 85 less pensionable service. In practice, only one-third of the full actuarial reduction is applied.

Cost-of-Living Increases

The Lieutenant-Governor-in-Council, by regulation, may make adjustments in the pensions payable to pensioners and beneficiaries or in the pensions deferred to begin at some later date to maintain approximate parity with the cost-of-living.

RECOMMENDATIONS

Equally important as the appeal responsibility, though not as visible from a public perspective, is the Advisory Role of the Board. The Board is empowered to advise the Minister respecting any matters on the plan (Section 9 of the Act).

During the year several topics were addressed by the Board, including one related to the size and authority of the Board.

A hearing was provided to the Alberta Retired Public Employees Society in January and December dealing with the question of inflation protection for pensioners. A recommendation was forwarded to the Minister after considering the points expressed by ARPES together with other factors on COLA. The question dealing with the integration of the plan with the Canada Pension Plan was also reviewed. The conclusion reached on a split decision was to continue supporting the integrated plan.

Some of the recommendations forwarded to the Minister are described in the following section:

FUNDING

STATUTORY CONTRIBUTIONS FOR CURRENT SERVICE

Change Recommended

Statutory employee and employer contribution rates should be adjusted over a transitional period to levels equalling the normal actuarial costs.

Employees and employers should jointly share these costs through equal contribution rates.

The rates should be set by regulation so adjustments may be made to contributions if necessary.

In establishing the normal actuarial costs:

- the rate of return assumption should reflect returns earned by large private sector funds.
- actuarial assumptions and method should be less conservative than those used for the March 31, 1985 actuarial valuation.
- employee, employer and government input into the actuarial assumptions used to set the statutory rate of contributions should be required.

Present Status

Participation contributions are established in the Act and Regulations as being:

Year	Percentages of Salary To YMPE	Over YMPE
1987	4.025%	5.75%
1988	4.200%	6.00%
1989 and subsequent years	4.375%	6.25%

Table 10

The employer matches the participant contributions.

The March 31, 1985 actuarial valuation shows that current contribution levels are not adequate to fund the plan fully for future service. It is assumed in the valuation that cost of living adjustments will be made annually in the future at 75 percent of CPI.

An independent actuary has found the March 31, 1985 actuarial assumptions and method "too conservative" when measured against parameters the Board views as appropriate.

Rationale

Benefits should be funded as they accrue rather than

being passed to the next generation.

The Pension Fund may not have the objectives of a private sector pension fund, but contribution rates should be set using investment yields equal to those in a large private sector pension fund.

Implications

The actuarial opinion received suggested that the 1989 statutory contributions will equal or exceed the normal actuarial cost.

UNFUNDED LIABILITIES

Change Recommended

The Government should make payments to reduce the unfunded liability on an amortized basis over time.

Present Status

The payment of all benefits is guaranteed by the Government.

The March 31, 1985 actuarial valuations shows total unfunded liabilities for the six government administered pension plans to be $3.87 billion.

Rationale

Payment of the unfunded liabilities will decrease the liabilities passed to future generations, increase the security of plan participants, and assign the cost of manpower to the appropriate operational time frame.

Implications

Payments of interest alone on the unfunded liability for the six plans would be more than $300 million per year. Offsetting this cost could be interest earnings which exceed 8.5 percent interest.

COST OF LIVING ADJUSTMENTS (COLA)

COLA

Change Recommended

COLA should be encoded in the legislation.

Present Status

COLA is granted at the discretion of the Lieutenant-Governor-In-Council. In the years 1970 through 1987 the practice has been consistently applied which resulted in the average compound increase of about 75 percent of the increase in the CPI for Canada.

Rationale

If current contributions are set up on the basis of 75 percent COLA being granted, the adjustments should be assured in the plan legislation.

Other reasons for encoding COLA are:

- employees and pensioners could plan knowing to what extent their pensions are protected from inflation.

- the benefit should be encoded to calculate the commuted value of pension on termination or marriage breakdown and to help to determine amounts on portability.

Implications

In the actuarial valuation it is assumed that future ad hoc COLA would occur annually at 75% of inflation. Therefore encoding COLA at this level would incur no additional costs.

PENSION REFORM

PARTICIPATION

Change Recommended

Participation of all employees in the Plan (except special classes such as those in the Student Temporary Employment Program or the Priority Employment Program) should be compulsory from date of hire.

Present Status

Full-time non-continuous employees with a contract of more that one year must participate. Part-time continuous employees may participate under the employer's policy. Regularly scheduled hours must not be less than 728 hours per year or 14 hours per week.

Rationale

Increased participation is consistent with the object of pension reform.

The Board decided not to base participation on minimum hours, earnings, or on employment status for the following reasons:

- Distinctions in classes of employment in Government are not clear-cut.
- The earnings floor of 35% YMPE in pension reform is based on net replacement ratio for government benefits. In the Board's view this would not apply under the plan because annual earnings and hours will likely increase for most employees over a career.
- With increased participation, there would no longer be a need for purchase of prior government service.
- Participants ending employment after short service would not be penalized if credited interest at market rates were applied.

Implications

Administration of the plan would increase through additional enrolments and issuing of refunds to non-vested terminating employees who terminate their service.

If refunds are computerized it should reduce manpower requirements.

Fewer purchases of prior service would also reduce administration.

Comment

In the Board's view, an alternate plan could be considered for other than full-time continuous employees.

VESTING

Change Recommended

Vesting at Normal Pensionable Age should occur even if the requirement of five years of pensionable service is not met.

Five years of continuous participation (i.e. "participatory service") rather than five years of pensionable service should be used for vesting and early retirement (85 factor.) Pensionable service would continue to be used for calculation of benefits.

Present Status

A minimum of five years of pensionable service is required for eligibility for a pension.

Pensionable service is used in determining eligibility for early retirement without reduction.

Rationale

The recommended changes to vesting are consistent with the Alberta pension reform legislation.

The changes to vesting and application of the 85 rule are necessary for the equal treatment of full and part-time employees.

Implications

Increases in costs would be minimal.

LOCKING-IN

Change Recommended

Pension benefits should be locked-in upon vesting.

Present Status

Pension benefits are locked-in when immediately entitled to a pension benefit, for example when reaching age 55 and five years of pensionable service.

Rationale

The change would be consistent with the goal of the pension plan to provide financial security for retirement years. It is also consistent with pension reform legislation.

Further, the change would serve to preserve post-retirement spousal protection.

Implications

Costs would be minimal.

CREDITED INTEREST

Change Recommended

Interest on employee contributions should be credited at a market rate.

The Board, in February 1986, recommended that the average rate paid on non-chequeable savings accounts for the previous year, as reported by the Bank of Canada, be credited to members' accounts.

Since the February 1986 recommendations, the Canadian Association of Pension Supervisory Authorities (CAPSA) reached a consensus on crediting of interest to members' accounts, at the annual average yield on the five-year personal fixed term deposits.

The basis proposed by CAPSA would be somewhat more generous over the long term.

Present Status

Interest is credited on contributions at four percent per annum compounded semi-annually.

Rationale

The change would be consistent with pension reform legislation.

An increased interest rate is required for reasons of fairness in calculating refunds on non-vested terminations and for the applications of the minimum value rule on vested terminations.

This would also remove a source of discontent among plan members.

Implications

The Wyatt Company recently estimated that the additional liability would be less than $400,000 for members predicted to die or terminate before completing five years of service.

Previously Paterson Cook Ltd. estimated costs varying from 0.05 percent to 0.1 percent of payroll for each 1 percent increase.

PORTABILITY AND MINIMUM EMPLOYER COST RULE

Change Recommended

On termination, transfer of the value of the vested pension should be permitted to:

a. a pension plan of a new employer, if that plan accepts such transfer, or

b. a locked-in RRSP, or

c. an insurance company to buy a life annuity.

The transfer value of a vested pension should be based on the recommendations for the computation of minimum transfer value of deferred pensions developed by the Canadian Institute of Actuaries. (This basis is prescribed for private pension plans.)

The minimum employer cost rule should apply retroactively to all service, excepting for prior service from another employer.

Present Status

Transfer of funds is allowed only under the terms of a reciprocal transfer agreement; otherwise only withdrawal or transfer of employee contributions and interest is allowed.

No minimum employer cost rule provisions are now applicable.

Rationale

Transferring of vested pensions enhances portability.

The 50 percent rule assures minimum employer contributions. Current reciprocal agreements could then be terminated or changed.

Implications

Referring to the cost implications, the Wyatt Company has tentatively concluded as follows:

"if the early retirement subsidy were eliminated and the termination benefits provisions of the (Employment Pension Plans) Act were implemented, the net impact would be a reduction in the cost of the plans."

Provision of portability would increase the outflow of cash from the Pension Fund in the near term. This would increase the need to address the management of the unfunded liability.

OTHER PENSION MATTERS

SUBSIDY ON EARLY RETIREMENT

Change Recommended

Early retirement factors should be adjusted to a true actuarial equivalency basis.

Present Status

Factors now in use reduce the pension by about 30 - 40 percent of the true actuarial reduction.

Rationale

The recommended change would decrease the cost of early retirement pensions and thus would improve

the financial soundness of the plan.

Implications

As stated in the Implications of the Portability and Minimum Employer Cost Rule, the Wyatt Company has tentatively concluded that if the early retirement subsidy were dropped and the termination benefit provisions of the Employment Pensions Plans Act were carried out, the net impact would be a reduction in cost of the plan.

The factors to be used are prescribed by the Minister.

When the current subsidy is used to encourage early retirement, other incentives are necessary to achieve that objective.

DIVISION OF PENSION BENEFITS ON MARRIAGE BREAKDOWN

Change Recommended

The Board favours the introduction in Alberta of the recommendations of the Institute of Law Research and Reform on division of benefits on marriage breakdown.

In addition the following should apply under the Plan:

i. Upon request by either the employee or former spouse, a valuation of benefits accrued during marriage will be provided by pension administration; and

ii. Valuation and Division will be permitted under the plan without a court order provided there is consent of both parties.

These recommendations were forwarded to the Minister in June 1987.

Present Status

Current methods available for dividing pension benefits are Valuation and Accounting, and Division of Proceeds. Valuation and Division are not available.

The pension administration will provide pension information to a non-employee spouse only on written request by the employee.

The pension administration will not assign a value to a benefit, therefore on marriage breakdown the parties must seek advice from an independent source.

Rationale

Comments on the specific recommendations applicable to the Plan are:

i. The Canadian Institute of Actuaries' recommended basis would be used for the valuation of accrued pensions on both termination of employment (for portability) and on marriage breakdown (for pension splitting).

ii. The Board's recommendations would help and encourage settlement outside of the courts.

Implications

Together with portability, Valuation and Division on marriage breakdown would increase the outflow of cash from the Pension Fund.

Additional administrative costs would incur in valuing the benefits, and actuarially adjusting employees's benefits at termination, death, or retirement. These costs, however, could be charged to the parties.

The recommendations would make division of pension benefits easier and less costly under the Plan.

RECOGNITION OF PRIOR SERVICE

Change Recommended

The Board advised the Minister on recognition and costing of prior service in October 1986.

The recommendations were as follows:

i. that certain types of service recognized under the plan become ineligible for purchase;
ii. that the cost of reinstating service for which a refund was previously received be based on current salary;
iii. that portability between Alberta public plans be reviewed by the Alberta Treasury before changes are made to recognition of contributory prior service under another Alberta Plan;
iv. that commuted value amounts transferable under pension reform legislation be held in the individual's RRSP rather than being permitted into the plan; and
v. that the minimum monthly prior service payment be increased, prompt application be encouraged and a market amortization rate of interest apply.

Present Status

Costs now levied vary depending on type of service being purchased, years since the prior service was rendered, and date of application. The costs do not relate to the actuarial value of the resulting increase in pension.

Rationale

Current provisions for recognition and costing of prior service are arbitrary and inequitable.

Recognition of prior service under other jurisdictions is more restrictive.

Purchase of prior service is one source of growth in unfunded liabilities.

The proposed tax changes and proposed changes to pension plan registration rules also impact on the provision of prior service.

Implications

Changes recommended will reduce inequities between employees, increase fiscal responsibility, and lower administrative costs.

COST OF LIVING ADJUSTMENTS TO PENSIONS AND DEFERRED PENSIONS

INTRODUCTION

STATUTORY PROVISIONS

In 1969, the Government of Alberta amended The Public Service Pension Act and The Local Authorities Pension Act to authorize the Lieutenant Governor in Council to make adjustments in pensions to maintain an approximate parity with the cost of living. Subsequent pension legislation, namely, the M.L.A. Pension Act, the Public Service Management Pension Act, the Universities Academic Pension Act and the Special Forces Pension Act has a similar provision.

The Pension Acts effective November 1, 1985 each contain the following provision:

> "Notwithstanding anything in this Act, the Lieutenant Governor in Council may by regulation, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amount payable as pensions."

FUNDING ARRANGEMENTS

The actuarial valuation as at March 31, 1988, and some previous valuations, assumed that on average, COLA will be granted annually at 75 percent of inflation.

The normal actuarial cost, and accrued liabilities were calculated on this assumption. Current combined employee and employer contributions are less than the normal actuarial cost of the plan calculated on this basis.

PREVIOUS RECOMMENDATIONS MADE BY THE BOARD
(see Table 13)

In December 1985, the Board recommended that the Alberta Government adopt a statutory formula basis for COLA. This recommendation was restated in September 1987. The Board also recommended that employee and employer contributions be set to cover the full cost of this benefit.

In August 1988, the Board recommended that the cost of COLA equal to 60 percent of inflation be used as an alternate valuation costing.

In recommending increases over recent years, the Board based its recommendations on the Edmonton and Calgary CPI ("Alberta CPI") increase over the measurement period October-September of the previous year.

A comparison of the recommended and actual increases over the past three years is as follows:

Jan. 1	Inflation*	Recommended Increase	Actual Increase (% of Inflation*)
1986	2.77%	2.5%	2.25% (81.2%)
1987	3.57%	2.5%	2.70% (75.6%)
1988	4.42%	3.3%	2.50% (56.6%)

Table 11

* Based on the increase in the Alberta CPI. (October - September period per year)

Changes to the CPI over the October 1987 to September 1988 measurement period have been as follows:

	CPI Index		Increase
	Sept-88	Sept-87	Oct-87 - Sept-88
Canada	145.0	139.3	4.09%
Edmonton	138.0	135.6	1.77%
Calgary	136.8	133.7	2.32%

Table 12

The Alberta CPI increase over the measurement period was 2.05 percent which compares to a 4.09 percent increase in the Canada CPI.

COLA at 75 percent of the increase in the CPI as follows:

- 3.1 percent based on the Canada CPI
- 1.5 percent based on the Alberta CPI

RECENT DEVELOPMENTS

Indexing of pensions has been on the collective bargaining as well as the legislative agenda over recent years.

The new Canadian Auto Workers Union contract with Chrysler, Ford, and General Motors includes automatic pension indexation for the first time. The formula for future retirees provides for a maximum of 90 percent inflation protection of a specified cap, with the carry forward of any indexing of the cap. The formula is linked to COLA increases given to active workers, thereby preventing pension indexing from exceeding current wage increases or the pension levels of future retirees. Retroactive increases provided to current pensioners are much less generous.

Another recent development is the Air Canada settlement with a five year contract providing for automatic indexing.

On the legislative agenda, mandatory indexing has been introduced into the Ontario and Nova Scotia Pension Benefit Acts regulating private sector plans. In both jurisdictions the indexing formula is to be prescribed by regulation later.

In Ontario, the Task Force on Inflation Protection for Employment Pension Plans (Friedland Report) proposed that pensions and deferred pensions be increased at least 75 percent of the annual increase in the CPI, minus one percent. It is further recommended that inducements to provide inflation protection to the existing pensioners and accrued benefits for active members be provided by the government.

Lastly, the changes to the tax rules for retirement savings may encourage indexation of defined benefit pension plans as the Pension Adjustments (PA's) of indexed and unindexed plans providing the same formula benefit are equal.

HISTORICAL INCREASES

In the years 1970 through 1988, COLA has been consistently applied on an ad hoc basis to the Alberta government administered pensions. The result is that the average annual compound COLA increase over this period represents 75.4 percent of the Canada CPI and 78.6 percent of the Alberta CPI. A comparison of the history is shown in Table 1.

Table 14 on the following page illustrates the impact of inflation on pensioners under the Alberta government administered pension plans by year of retirement.

For example, Table 14 shows that a pensioner who retired in January 1969 with a $100.00 pension, is now receiving $266.38 (Column (2)) because of indexing. However, to provide complete protection from inflation, his $100.00 pension should have increased to $363.05 (Column (1)).

The ratio is .73 (Column (3)) illustrating that each pension dollar payable in 1969 is now worth $0.73.

Table 14 illustrates that all pensioners have retained purchasing power of at least $0.71 on each $1.00 of pension income.

Comparison of Adjustments to CPI

Year	Cost of Living Adjustment (Jan. 1) %	CANADA		EDMONTON/CALGARY	
		CPI Increase (Prev. Yr.) %	COLA as % of CPI	CPI Increase (Prev. Yr.) %	COLA as % of CPI
70	2.50	4.65	53.8	4.10	61.0
71	2.50	1.48	168.9	2.40	104.2
72	3.50	4.87	71.9	2.40	145.8
73	3.50	5.10	68.3	5.26	66.5
74	5.00	9.27	53.9	8.43	59.3
75	16.00	12.32	129.9	12.27	130.4
76	8.70	9.53	91.3	10.20	85.2
77	3.00	5.91	50.8	6.45	46.5
78	6.00	9.46	63.4	9.7	61.8
79	6.50	8.36	77.8	7.93	82.0
80	8.00	9.80	81.6	9.38	85.2
81	8.50	11.19	76.0	12.41	68.5
82	10.00	12.10	82.7	11.90	84.0
83	5.00	9.26	54.0	8.87	56.4
84	3.00	4.55	65.9	3.82	78.5
85	2.50	3.76	66.5	2.28	109.7
86	2.25	4.35	51.7	3.34	67.4
87	2.70	4.17	64.8	3.31	81.6
88	2.50	4.15	60.2	4.48	55.8
19 Years 1970-1988	5.29	7.02	75.4	6.73	78.6
10 Years 1979-1988	5.06	7.12	71.1	6.71	75.4
5 Years					
1974-1978	7.65	9.28	82.4	9.39	81.5
1979-1983	7.59	10.13	74.9	10.08	75.3
1984-1988	2.59	4.19	61.8	3.44	75.3

Table 13

Impact of Inflation and Cost of Living Adjustments on Alberta Government Administered Pensions

Date of Retirement (January)	$100 Pension Adjusted by CPI (Canada) to Jan. 1988 (1)	$100 Pension Adjusted by COLA to Jan. 1988 (2)	Purchasing Power Retained (1988) (3)
	$	$	
1959	454.69	346.29	0.76
1960	448.88	338.30	0.75
1961	443.22	330.30	0.75
1962	441.82	322.32	0.73
1963	434.98	314.32	0.72
1964	427.05	306.33	0.72
1965	419.40	298.35	0.71
1966	407.25	290.36	0.71
1967	393.56	282.35	0.72
1968	377.69	274.37	0.73
1969	363.05	266.38	0.73
1970	346.91	259.88	0.75
1971	341.85	253.53	0.74
1972	325.99	244.96	0.75
1973	310.15	236.74	0.76
1974	283.84	219.93	0.77
1975	252.70	203.06	0.80
1976	230.71	184.18	0.80
1977	217.83	173.61	0.80
1978	199.01	163.78	0.82
1979	183.66	153.80	0.84
1980	167.26	142.41	0.85
1981	150.43	131.25	0.87
1982	134.19	119.31	0.89
1983	122.81	113.64	0.93
1984	117.47	110.32	0.94
1985	113.22	107.64	0.95
1986	108.49	105.27	0.97
1987	104.15	102.50	0.98

Table 14

COMPARISON WITH OTHER PLANS

PUBLIC SECTOR

The policy of the Government of Alberta to adjust pensions is in line with the policy of other provinces and the Government of Canada.

The Governments of British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Quebec have statutory provisions for automatic indexing of pensions in relation to increases in CPI. In Ontario and Prince Edward Island indexing is limited to a maximum of eight percent in a year. If the CPI increase exceeds eight percent or is negative, the difference is carried forward to a later year. New Brunswick and Nova Scotia provides full indexing to a maximum of six percent in a year. British Columbia has no such ceiling but based on funds available in its pension adjustment account has provided full inflation protection. The Government of Quebec, since July 1, 1982, has provided increases equal to those under the Quebec Pension Plan less three percent. Manitoba has a complex formula based on increases in CPI and funds.

The Government of Canada introduced legislation in December 1986 to reform the pension plans of public service employees, R.C.M.P., and Canadian Forces. It is proposed that full indexing for the portion of pension before the effective date be guaranteed to current employees. Full inflation protection would not be guaranteed for service from the date of change, but where economic experience assumed in funding the plan is realized, such protection would be available.

The Coward Report to the Treasurer of Ontario dated August 1987, addressed several issues about index-

ing under the pension plans for Ontario public servants and teachers. It stated that the present formula for COLA is reasonable and recommended it be retained. It also recommended that the "COLA Fund" be amalgamated with the basic fund and that the basic benefit and COLA be recognized and costed as a single benefit.

Alberta and Newfoundland are the only provinces where participants are not assured COLA either by a pre-determined statutory formula, or on the basis of funds available. The new Saskatchewan pension plan is a money purchase plan. Pension benefits are provided based on contributions received and fund earnings.

Table 15, which follows, shows the COLA basis and funding arrangements for of several public sector plans.

PRIVATE SECTOR

As shown in the Appendix, seven percent of private sector plan members participated in plans with automatic indexing in 1986 versus 67 percent of public sector plan members. Not reflected on these statistics are the recent Canadian Auto Workers and Air Canada contracts for automatic indexation.

Mandatory indexing in Ontario will significantly increase membership in indexed plans. About 44 percent of private sector pension plan members are in Ontario.

AD HOC VERSUS FORMULA INCREASES

Private sector pension plans with a few exceptions do not provide automatic cost-of-living adjustments. Some employers in this sector increase pension on a case by case basis. An ad hoc adjustment is an increase in the current monthly payments to pensioners with no commitment that increases will continue to be awarded in the future. Under this arrangement pensions payment might be increased by a certain percentage or by flat dollar amount. This is based upon the needs of the retired employees and the employer's ability to finance such increases.

An ad hoc adjustment method has some advantages to the employer. First, he is not required to fund for COLA; second his risk is lower. in times of low income or continued high inflation, pension adjustments can be decreased or postponed.

Four of the Alberta Government pension boards have recently recommended that the Alberta Government encode in legislation a formula basis for cost-of-living adjustments. The formula basis for COLA would have the following advantages:

1. Employees and pensioners could plan knowing to what extent their pensions are protected from inflation.

2. Adequate funding over the long-term requires that the COLA formula be defined. The actuarial valuation is based on the assumption that COLA will recognize 3/4 of inflation.

3. With the encoding of a COLA formula, the benefit could be assured to employees. They would be willing to share the cost of providing COLA if that benefit is certain.

4. Under the portability provisions, of the private sector pension legislation, a terminating member may transfer the commuted value of his pension to the pension plan of his new employer (if permitted), or an RRSP. Three of the Alberta Government pension boards recommended in 1987 that parallel provisions apply under the respective plans. An accurate calculation of the commuted value of the pension requires COLA to be defined as a benefit entitlement.

Pension Adjustment Arrangements in the Public Sector

Jurisdiction	Basis	Funding Arrangements
1. British Columbia	Regular increases are based on full CPI subject to the ability of the funds set aside for that purpose.	Separate pension adjustment account to which employee and employer contribute 1.25 percent of salary. In addition, excess interest on pensions already granted is transferred to this account.
2. Canada (federal)	Regular increases based on full CPI (October to September)	Separate pension adjustment account to which employee and employer each contribute. NOTE: Changes are pending to the Federal Plan.
3. Manitoba	Effective July 1 of each year, COLA adjustments are made based on the lesser of the CPI increase which could be paid without resulting in an unfunded liability in the adjustment account.	10.2 percent of emplyees' annual contributions are allocated to a superannuation indexing adjustment account.
4. New Brunswick	Regular increases based on CPI up to a maximum of six percent.	Separate pension adjustment account maintained to which employee and employer contribute.
5. Newfoundland	Ad hoc adjustments based on annual review.	No separate fund, paid out of existing basic fund.
6. Nova Scotia	Same as New Brunswick	Same as New Brunswick
7. Ontario	Regular increases based on CPI to a maximum of eight percent a year, with a carry forward.	Separate pension adjustment account to which employee and employer each contribute one percent of salary. NOTE: Under review.
8. Prince Edward Island	Same as Ontario	Same as Ontario

Table 15

9. Quebec	Regular increases based on indexing percentage of QPP for service before July 1, 1982. Pension for service after July 1, 1982 is given increases based on indexing percentage of QPP less three percent.	The cost is incorporated into the current contribution rate.
10. Saskatchewan	'Old' Plan - ad hoc increases equal to or less than CPI. 'New' Plan - N/A	No separate fund, paid out of the basic fund.
11. Ontario Municipal Employees Retirement System (OMERS)	Ad hoc increases are provided in accordance with the stated policy to provide at least 60 percent of the CPI.	Excess earnings formula is used as an internal policy for indexing. The base rate is six percent.
12. Teachers' Retirement Fund (Alberta)	Ad hoc as authorized by the Lieutenant-Governor-in-Council. In practice, COLA increments have approximated those granted under the Alberta Government administered pension plans.	No separate fund. Current employee and deemed employer contributions do not cover the entire cost of COLA.
13. Alberta Government Telephones	COLA increase is limited to the amount which can be financed by the supplemental benefits account, to a maximum of 70 percent of CPI.	Supplemental benefits account to which employee and employer each contribute .69 percent of salary is used to pay adjustments provided.

Table 15 (continued)

COST OF PENSION INCREASES

RELATIVE COST OF COLA AT VARIOUS RATES

The Friedland Report noted that the cost of adding inflation protection to an unindexed plan varies by plan.

One plan examined was a 1.3/2.0 percent integrated final earnings plan with retirement age 65 (no unreduced early retirement.) Analysis showed annual costs assuming five percent inflation for the plan were as follows:

	Normal Actuarial Cost (% of Payroll)
1. No Indexing	6.25%
2. Indexing at 100% of CPI	10.25%
3. Indexing at 75% of CPI minus 1%	8.25%

Normal actuarial costs increased considerably when annual indexing was introduced.

A further illustration of costs is made in Table 16 below which compares the costs of indexed and unindexed annuities.

Costs are based on the following assumptions:

1. The pension is payable for life only.

2. The actuarial assumptions described in the March 31, 1988 valuations have been used, namely
   8.5% interest
   6.0% inflation

3. Adjustments are made each year.

Table 4 illustrates that COLA equal to 3/4 of inflation increases the cost of a non-indexed annuity by about 40 percent (for males at age 65) to 60 percent (for females at age 55.)

COST OF JANUARY 1, 1989 COLA

Estimated costs for COLA at various rates are shown on Table 5.

1986 PENSION INDEXING STATISTICS CANADA

Inflation protection of pension benefits continues to be a subject of much discussion. Many plans compensate for inflation up to the time of retirement by basing pensions on the employees' earnings shortly before retirement as, for example, final earnings, final average earnings and average best earnings plans. However, traditionally relative few plans have contractually provided for the escalation of pensions after the employee retires. At the beginning 1986 only 1 016 plans, less than five percent of all plans, provided for the automatic escalation of pensions. These 1 016 plans, however, covered 1 577 216 members, nearly 34 percent of the total. However, as Text Table 22 illustrates, 89 percent of these members were in the public sector.

Cost of $1000 Annual Pension

Pension Commencement Age	No COLA	(Inflation Less 3%) 3% COLA	(3/4 of Inflation) 4.5% COLA	(Full Inflation) 6% COLA
55 Male	$9 934	$13 103	$15 313	$18 128
Female	10 706	14 560	17 359	21 044
60 Male	9 205	11 205	13 555	15 716
Female	10 141	13 435	15 738	18 676
65 Male	8 292	10 329	11 646	13 229
Female	9 407	12 108	13 924	16 171

Table 16

Estimated Costs of January 1, 1989 COLA Increase

($ millions)

	All Plans		P.S.P.P.	
COLA	Increase in Annual Pensions	Cost	Increase in Annual Pensions	Cost
1.0%	$2.7	$15	$0.8	$5
1.5	4.0	22	1.2	7
2.0	5.4	30	1.6	9
2.5	6.7	37	2.0	11
3.0	8.0	44	2.4	13

Table 17

Automatic Escalation of Pension Benefits in the Public and Private Sectors Showing Plans and Members, 1986

Both sectors

	Plans		Members	
	No.	%	No.	%
Indexing with consumer price index	319	1.5	634 814	13.6
Partial Indexing(1)	697	3.3	942 402	20.2
Total	1 016	4.8	1 577 216	33.8
No indexing	20 078	95.2	3 091 165	66.2
Grand total	21 094	100.0	4 668 381	100.0

Table 18

Public Sector

	Plans		Members	
	No.	%	No.	%
Indexing with consumer price index	33	3.5	623 782	29.9
Partial Indexing(1)	79	8.4	772 798	37.0
Total	112	11.9	1 396 580	66.9
No indexing	825	88.0	689 626	33.1
Grand total	937	100.0	2 086 206	100.0

Table 19

Private Sector

	Plans		Members	
	No.	%	No.	%
Indexing with consumer price index	286	1.4	11 032	0.4
Partial Indexing(1)	618	3.1	169 604	6.6
Total	904	4.5	180 636	7.0
No indexing	19 253	95.5	2 401 539	93.0
Grand total	20 157	100.0	2 582 175	100.0

Table 20

(1) Included are plans providing automatic indexation based on C.P.I. adjustments to maximum increase, on wage index, with or without maximum and on excess interest earnings.

APPENDIX
EXCERPTS FROM THE PUBLIC SERVICE PENSION PLAN ACT
Division 2
The Public Service Pension Plan Board

Establishment, composition, term of office, etc.

5 (1) There is hereby established a board known as the Public Service Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among persons nominated by the Alberta Union of Provincial employees.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and vice-chairman

6 (1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support Services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide the advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;

(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.

Advisory functions of the Board

9 The Board may advise the Minister respecting any matters relating to the Plan, including

(a) the adequacy of contributions to meet benefits,

(b) adjustments to pensions under section 27,

(c) rates of interest for the purposes of the Plan,

(d) benefits,

(e) reciprocal agreements,

(f) recognition of prior service,

(g) eligibility and participation in the Plan, and

(h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the Plan,

(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and

(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

PART 6
APPEALS

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, power, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and

(b) shall be deemed to be a person authorized for the purposes of section 1(a) of the Administrative Procedures Act.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.